

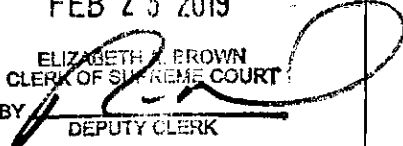
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT STEVENS,
Appellant,
vs.
ROBERTA STEVENS,
Respondent.

No. 73809-COA

FILED

FEB 25 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a decree of divorce and a post-judgment order awarding attorney fees and costs. Eighth Judicial District Court, Family Court Division, Clark County; Jennifer Elliott, Judge.

Appellant Robert Stevens contends that the district court erroneously awarded respondent Roberta Stevens attorney fees and costs, as the district court should have concluded that the attorney fees and costs are community debt that must be divided equally. After reviewing the district court's award of attorney fees for an abuse of discretion, *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005), we disagree with appellant's contention.¹


Pursuant to NRS 125.040(1)(c), the district court, in a divorce proceeding, may order a spouse to monetarily support the other spouse in defending the divorce lawsuit. *See also* NRS 125.150(4) (stating that district courts may impose reasonable attorney fees in divorce proceedings). In addition, the district court may award attorney fees to a spouse on the basis of disparity in income to ensure an even playing field in the courtroom. *Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972); *see also Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998) (providing

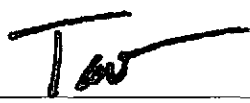
¹We do not recount the facts except as necessary to our disposition.


that “[t]he disparity in income is also a factor to be considered in the award of attorney fees”). In making an attorney fees award, the district court must consider: “the qualities of the advocate,” the character of the work performed, “the work actually performed by the lawyer,” and the outcome of the case. *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) (internal quotation marks omitted).

Here, the district court awarded respondent \$57,723.60 in attorney fees and costs. We conclude that the award was not improper under *Sargeant* because appellant was the primary income earner during the parties’ marriage, and respondent is retired. As the district court noted, respondent should not have to jeopardize her future subsistence in order to proceed in the divorce proceeding. And, appellant does not dispute the disparity in the parties’ income or the amount of the attorney fees. Rather, appellant contends that attorney fees that are incurred during the course of a divorce proceeding should be considered community debt, but NRS 125.150(4) and *Sargeant* unequivocally provide that the district court may award a spouse attorney fees in a divorce proceeding. Additionally, the district court properly considered the factors in *Brunzell* and *Wright*, as required in awarding attorney fees. We therefore conclude that the district court’s award of attorney fees and costs was not an abuse of discretion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Eighth Judicial Judge, Department L
Law Offices of F. Peter James, Esq.
Webster & Associates
Eighth District Court Clerk